

**Before The
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Connect America Fund)	WC Docket No. 10-90
)	
A National Broadband Plan for Our Future)	GN Docket No. 09-51
)	
Establishing Just and Reasonable Rates for Local Exchange Carriers)	WC Docket No. 07-135
)	
High Cost Universal Service Support)	WC Docket No. 05-337
)	
Developing a Unified Intercarrier Compensation Regime)	CC Docket No. 01-92
)	
Federal-State Joint Board on Universal Service)	CC Docket No. 96-45
)	
Lifeline and Link-Up)	WC Docket No. 03-109

**COMMENTS OF NEUTRAL TANDEM, INC., d/b/a INTELIGENT
REGARDING SECTIONS XVII.L-R OF THE
FURTHER NOTICE OF PROPOSED RULEMAKING**

Neutral Tandem, Inc., d/b/a Inteligent (“Neutral Tandem”) respectfully submits these initial comments regarding Sections XVII.L-R of the Further Notice of Proposed Rulemaking (“FNPRM”) in the above-referenced dockets.¹ As discussed in more detail below, to the extent the Commission adopts any further regulations or reforms related to intercarrier compensation, it should avoid regulating competitive services which promote efficient indirect interconnection between carriers. Similarly, to the extent the Commission adopts any IP interconnection

¹ Neutral Tandem is the leading competitive (*i.e.*, non-ILEC) provider of tandem services in the United States. Neutral Tandem provides competitive tandem services in 189 of the 192 LATAs in the continental United States, and in Puerto Rico. The only LATAs in which Neutral Tandem does not provide service are LATAs 921, 980, and 981. LATA 921 is comprised entirely of Fishers Island, New York, an island off of the coast of Long Island. LATAs 980 and 981 are comprised of parts of the Navajo Nation. Neutral Tandem recently adopted “Inteligent” as a d/b/a, but continues to refer to itself as “Neutral Tandem” in these comments, as it has done throughout this proceeding.

requirements, it should give carriers flexibility to meet those requirements through indirect interconnection.

I. THE COMMISSION SHOULD AVOID REGULATING SERVICES WHICH PROMOTE EFFICIENT INDIRECT INTERCONNECTION.

In the FNPRM, the Commission recognized that a “critical aspect to bill-and-keep is defining the network ‘edge’ for purposes of delivering traffic.”² The Commission has suggested that a “competitively neutral” way to define the network edge could be “where interconnecting carriers have competitive alternatives – other than services provided by the terminating carriers – to transport traffic to the terminating carrier’s network.”³

Implicit in this suggestion is an understanding that indirect interconnection plays an important role in facilitating efficient interconnection and traffic delivery among carriers. As the FNPRM notes, “many providers interconnect indirectly today,” and even carriers that support IP interconnection mandates “anticipate that indirect interconnection will remain important in an IP environment as well.”⁴

The reforms adopted by the Commission thus far have reasonably balanced the Commission’s aim of promoting bill and keep as an end state between originating and terminating carriers, without undermining the continued availability of competitive services that promote efficient indirect interconnection. Thus, with respect to terminating access charges, the Commission did not mandate that charges for tandem and transport services provided by intermediate carriers be transitioned to bill and keep.⁵ Instead, the Commission limited the bill and keep end state to reciprocal compensation and terminating end office services (which

² See *Report and Order and Further Notice of Proposed Rulemaking*, WC Docket Nos. 10-90, 07-135, 05-337, 03-109; CC Docket Nos. 01-92, 96-45; GN Docket No. 09-51, ¶1320 (rel. Nov. 18, 2011) (hereafter, “FNPRM”).

³ *Id.* ¶ 1321.

⁴ *Id.* ¶ 1374 & n.2498 (citing July 29, 2011 *ex parte* from Sprint).

⁵ *Id.* ¶ 801.

inherently are provided by terminating carriers).⁶ The Commission applied bill and keep to tandem and transport services *only* when those services are provided by the terminating carrier.⁷ As the Commission considers any further intercarrier compensation reforms, however, it must take care not to impose unwarranted price regulation on competitive services that promote efficient indirect interconnection between originating and terminating carriers.

One obvious example of such a service is intermediate local transit service. In prior comments, Neutral Tandem has explained, in detail, that the market for local transit services is highly competitive.⁸ As a result, prices for local transit service have fallen substantially.

Importantly, originating and terminating carriers can always choose to connect their networks directly and exchange local traffic without using an intermediate transit provider. In Neutral Tandem's experience, this occurs whenever the carriers determine that there is sufficient traffic flow between them to justify a direct connection. Thus, carriers use intermediate local transit services *only* when they find it more efficient to exchange traffic via indirect interconnection than via direct connection. In this respect, local transit services facilitate the efficient exchange of traffic between carrier networks.

The Commission has recognized that local transit services may play an important role in delivering traffic to and from the network "edge" in a bill and keep framework.⁹ By definition, however, carriers providing local transit services do not have end users from which they can receive compensation for the services they provide. Thus, if the Commission were to impose a bill and keep regime or cost-based end state on transit services by regulatory fiat, carriers would

⁶ *Id.*

⁷ *Id.*

⁸ See April 18 Comments of Neutral Tandem (April 18, 2011); May 23 Reply Comments of Neutral Tandem (May 23, 2011); Decl. of Surendra Saboo, Ex. B to Neutral Tandem's Reply Comments (May 23, 2011); Decl. of Gerard Laurain, Ex. A to Neutral Tandem's May 23 Reply Comments (May 23, 2011); see also April 1, 2011 Comments of Neutral Tandem.

⁹ FNPRM ¶ 1313.

no longer be able to provide these services on a competitive basis. It would hardly promote efficient interconnection for the Commission to adopt price regulation that undermines the competitive market for a service that is both widely available on a competitive basis, and by definition is used only when originating and terminating carriers find it more efficient to exchange traffic via indirect interconnection than via direct interconnection.

Although intermediate local transit service provides a clear example of an intermediate service which should not be subject to price regulation, the principle applies more broadly – the Commission should not impose price regulation on services that are available on a competitive basis. For example, the tandem switching and transport elements described at Paragraph 1306 of the FNPRM often are provided by intermediate carriers that do not serve the terminating end user.¹⁰ This is not a sign of arbitrage activity or an opportunity for inappropriate cost-shifting by terminating carriers, as some carriers claim.¹¹ Rather, it is a sign of ongoing competition in the market to provide intermediate delivery of traffic between the “edges” of originating and terminating carriers.

The same often is true for originating access services – the market to provide intermediate delivery of traffic between carrier networks continues to grow, and prices continue to decline as a result. Rather than viewing these intermediate services in isolation, and as developments that require a regulatory response, the Commission should view the development of intermediate services as part of the holistic solution that can both facilitate the efficient exchange of traffic between originating and terminating carriers, and help the Commission define network edges as it works toward its stated goal of developing a bill and keep regime between originating and terminating carriers.

¹⁰ *Id.* ¶ 1306.

¹¹ *Id.* ¶ 1307.

II. THE COMMISSION SHOULD PERMIT CARRIERS TO MEET ANY NEW IP INTERCONNECTION MANDATES BY USING THE SERVICES OF THIRD-PARTY CARRIERS.

It would be an understatement to say that IP interconnection mandates are among the most hotly contested issues in this proceeding. As noted in the FNPRM, many ILECs – particularly ILECs that have not deployed IP networks – oppose any mandate to provide IP interconnection.¹² Competitive carriers, particularly those that have already deployed IP networks, generally support requiring ILECs to interconnect on an IP basis.¹³

As recognized in the FNPRM, the record shows that Neutral Tandem and other intermediate carriers already offer interconnection services that can include converting traffic between IP and TDM protocols.¹⁴ Moreover, as discussed above, even carriers that support IP interconnection mandates have acknowledged that indirect interconnection will remain important in an IP environment.¹⁵ Thus, to the extent the Commission opts to adopt any new IP interconnection mandates, it should allow carriers to meet those mandates by using services of third-party carriers where appropriate.

Of course, carriers would always be free to agree to connect their networks directly on an IP basis. In this respect, allowing carriers to satisfy any new IP interconnection mandates would simply provide carriers with reasonable alternatives to satisfying those new IP interconnection mandates, without disadvantaging carriers who already would prefer IP interconnection.

¹² *Id.* ¶ 1377.

¹³ *Id.* ¶ 1373.

¹⁴ *Id.* ¶¶ 1362, 1374, 1391.

¹⁵ *Id.* ¶1374 & n.2498 (citing July 29, 2011 *ex parte* from Sprint).

Respectfully submitted,
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